

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

PAULA ENCARNACION,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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Civil Action No.: 04-12021 MEL

**DEFENDANT'S FIRST SET OF INTERROGATORIES**  
**TO PLAINTIFF PAULA ENCARNACION**

Pursuant to Fed. R. of Civ. P. 33, the Defendant, United States of America ("United States"), hereby submits its First Set of Interrogatories to the Plaintiff, Paula Encarnacion, and requests that said Interrogatories be answered within the time prescribed by said rule.

**DEFINITIONS AND INSTRUCTIONS**

- (A) These Interrogatories are continuing in character, so as to require you to file supplementary answers if you obtain further or different information before trial.
- (B) Where the name or identify of a person is requested, please state the full name, home address and business address, including zip code, and telephone number of that person, if known.
- (C) Unless otherwise indicated, these Interrogatories refer to the time, place and circumstances of the occurrence(s) referred to in the above captioned Complaint.
- (D) Where knowledge or information is requested, such request includes knowledge of the

Plaintiff's agents, representatives and, unless privileged, attorneys.

- (E) The terms "you" and "your" refers to the party to whom these Interrogatories are addressed, and the persons mentioned in paragraph (D).
- (F) In answering these Interrogatories you are required to make such inquiry of your agents, representatives, employer(s), doctors, accountants, attorneys and such other representatives, and examine all documents which in any way relate to the events purported to have occurred as will enable you to make complete and true answers.

### **INTERROGATORIES**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, you are requested to answer the following fully, in writing, under oath, and within the time permitted by said rule:

1. Please identify yourself by stating your full name, address, date of birth, Social Security Number, weight and height, citizenship, occupation, occupational status and marital status.
2. Please identify by name and address, each person, including your agents or representatives, who have assisted you in the preparation of your responses to these Interrogatories, and identify the Interrogatories with respect to which each such person provided information or assistance.
3. Please state the full name and address of each school, college or university, or branch of military service you have attended or served in, the dates of attendance and/or service, the major or minor area of study and/or rank, your graduation date and/or discharge date, the type of certificate, diploma or degree and/or discharge received.

4. Please state the full name and address of each employer for whom you have worked during the ten (10) year period prior to, or at any time subsequent to, the date of the incident, giving the inclusive dates of employment, beginning and ending salary or grade level, position title, brief description of the work involved, hours worked per week, and name(s) of your immediate supervisor(s).

5. For the employment described in Interrogatory number 4 please describe your evaluation history with and by each employer, including the substance and results of any performance evaluations, reassignments, dismissals or terminations and the reasons for such actions.

6. Were you the owner of a motor vehicle involved in the incident? Further, please state:

1. The make, year and model of said motor vehicle;
2. The registration number of said motor vehicle, giving state, number and year of said registration;
3. The name and address of the person or entity to whom said motor vehicle was registered at the time of the incident;
4. A description of the motor vehicle, including its color, dimensions (including height, length and distance from the bottom of the vehicle's body to the ground), and the size and location of its mirrors;
5. **The overall condition of the vehicle prior to the events in question with specific reference to any physical damage to the vehicle; and**
6. The current location of said vehicle.

7. **Was the motor vehicle involved in the incident insured in your name?**

**Further, please state:**

1. **The name of the insurance company that insured the vehicle;**
2. **The type of insurance coverage the vehicle maintained;**

3. **The amount of a deductible if any;**
4. **The name and address of the insurance agent through which your claims are handled; and**
5. **Please state the amount, if any you were indemnified or reimbursed for medical expenses through the insurance company's PIP.**
8. Please state whether you have ever been cited or ticketed as an operator of any motor vehicle for any moving violation, equipment violation or any other restriction upon your driving privileges or on your vehicle in any state during the ten (10) year period prior to, at the time of, or at any time subsequent to, the date of the incident, including:
  1. The state and date of said citation, ticket or restriction;
  2. A detailed description of the reason(s) for said citation, ticket or restriction;
  3. The disposition of the citation, ticket or restriction; and
  4. Whether you were operating the vehicle you were driving on the date of the incident under a valid and current motor vehicle operator's license.
9. If you are claiming disability as a result of the injury, describe:
  1. Whether the disability is total or partial;
  2. The nature of the disability;
  3. What activities, if any, you are precluded from performing;
  4. Whether you have ever been judged disabled by any governmental agency;
  5. Whether you have ever been determined to be partially or totally disabled by any physician, doctor, practitioner, or hospital; and
  6. Whether you are claiming any loss of earning capacity as a result of the disability, and, if so, what percentage loss of earning capacity you claim.
10. If you are claiming loss of earning capacity, specify:
  1. The dates or periods of time you were unable to work as a result of the

incident;

2. The total amount of earnings you were making for a three month period prior to the incident;
3. The total amount of earnings you were making for a three month period subsequent to the incident;
4. The nature of your employment immediately prior to the incident, including your job title, duties, and tenure;
5. Your average earnings on a weekly, monthly, or annual basis from that employer.

11. Please identify every type of public benefit (including, but not limited to, Social Security Disability Income, Supplementary Security Income, workers' compensation, Unemployment) applied for or received by you at any time in the last ten (10) years, the amount of such benefits received, and the reasons for your application for such benefits.

12. During the fifteen (15) year period prior to, or at any time subsequent to, the date of the incident, did you sustain any injury, illness, or other form of disability other than that alleged to have occurred as a result of this incident? If so, give:

1. A description of each injury, illness, or disability;
2. The nature of the injury, illness, or disability;
3. Whether, when, and how the injury, illness or disability was sustained;
4. The duration of the injury, illness, or disability, listing exact dates if possible;
5. The name and address of any doctor, hospital, technician, or clinic which treated you for the injury, illness, or disability and the dates (or approximate dates) of such treatment; and
6. The party whom you claim was responsible for the injury, illness, or disability.

13. Have you ever filed any other suit for damages or recovered any amount in settlement for any personal injury, illness or disability suffered by you? If so, state with respect to each such recovery or suit:

1. When suit was filed, the name of the court in which it was filed, the docket or case number and the names of all parties thereto;
2. The nature and extent of the damage, injury, illness or disability for which damages were sought;
3. The circumstances in which the damage, injury, illness or disability occurred;
4. The ultimate disposition of each suit, including the amount of any settlement or judgment; and
5. If such action is still pending, state the present status thereof.

14. State the names and addresses of any person, other than one mentioned in the answers to the preceding Interrogatories, who you believe, has or may have any knowledge or information pertaining to the circumstances of the alleged incident and state, insofar as you know, the nature of such knowledge or information.

15. If you or anyone acting on your behalf has obtained a statement, whether written or oral, from any person concerning the matters alleged in your Complaint, please describe each such statement, giving for each the date on which it was obtained, the name and address of the person from whom it was obtained, the substance of the statement, the names and addresses of all persons present, whether a transcript, note or other record of the conversation was made, and if the statement is a written one, please identify the person in present custody or control of the document.

16. If there are any documents which you believe substantiate the allegations made in your Complaint, please describe and identify same and indicate the person or entity in whose possession or under whose control each such document rests.

17. Please identify by name, address and profession or specialty, each person you intend to call as an expert witness in this case at trial, and with regard to each such individual, please state:

1. The subject matter on which the expert is expected to testify;
2. The substance of the facts and opinions to which the expert is expected to testify; and
3. A summary of the grounds for each opinion.

18. Have you ever been disabled prior to this incident? If so, please identify the person, entity, or government agency making the determination by giving their name, telephone number, address, occupation and specialty. Describe in detail the facts which led up to each finding of disability, the nature and extent of the disability, and give the inclusive dates of each period during which you were disabled.

19. Please set forth each item of medical expenses you claim is attributable to the incident complained of herein, the person or organization to whom the expense relates, the date on which the expense was incurred, whether or not you have paid each such item of medical expenses yourself, and if not, the person, organization or entity who or which has paid such expense and whether there is any outstanding lien in existence with respect to each such item of medical expenses.

20. Please set forth in full and complete detail every item of damages, other than medical expenses and lost wages, which you claim as a result of the alleged negligence of defendant, including the nature of each loss, the monetary amount of each item, the date on which each item was incurred, and explain the method by which you calculate the monetary amount of each such loss.

21. Please describe all of your activities within 24 hours prior to the incident,

including a description of the amount of sleep you had, what you did during the day, where you were coming from and going to when the incident occurred, and the identity and amount of any drugs, medications, or alcohol you ingested.

22. With respect to the moment you first observed the Defendant's vehicle, please state:

1. Where the incident occurred in terms of the cities, highway, town streets, or other named or readily identifiable landmarks, buildings, equipment, construction or temporary activity or objects;
2. The weather conditions;
3. The distance in feet from your vehicle to the Defendant's vehicle;
4. The distance in feet from your vehicle to the point of impact;
5. Your vehicle's position in the road in relation to the Defendant's vehicle;
6. The distance in feet from the Defendant's vehicle to the point of impact;
7. The speed of your vehicle; and
8. The speed of the Defendant's vehicle.

23. Please state everything you did during the two minutes prior to and including the moment of the impact, including in your answer a complete description of activities requiring the use of one or both hands, such as smoking, drinking, adjusting equipment, touching some person or object, or the like, and a description of activities requiring any of your attention or concentration, such as listening to the radio, talking, or the like.

24. Please describe fully and in complete detail how the incident occurred, describing all events prior to, during and after the incident occurred in their sequential order, including everything you did in an attempt to avoid the incident with the Defendant's vehicle, or to warn the driver of the Defendant's vehicle of an impending collision.

25. Please describe the your actions immediately after the incident, including when



and where you pulled your vehicle over, where you went afterwards, and the substance of any communications, written or oral, you had with the driver of the Defendant's vehicle or any other person at the time, including the name and address of any such person.

26. Please state whether anyone has made a claim against you for injuries sustained as a result of alleged negligence while operating a motor vehicle, during the fifteen (15) year period prior to, or at any time subsequent to, the date of the incident, and if so, please state:

1. The date and location of the incident(s) complained of;
2. The name and address of the person or entity making such a claim;
3. Whether you were charged with violating any provision(s) of the Motor Vehicle Laws of Massachusetts or any other state;
4. If civil suit or criminal charges were filed, the name of the case, court and docket number;
5. The current status and/or resolution of any such criminal or civil actions.

27. Please state the basis for your claim amount in the complaint that is in excess of the amount claimed on the SF-95.

*MAY 10, 2005*  
Dated: ~~March 2, 2005~~

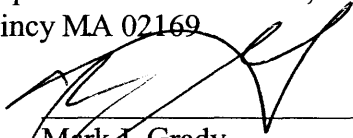
By their attorneys,  
MICHAEL J. SULLIVAN  
United States Attorney

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**Certificate of Service**

IT IS HEREBY CERTIFIED that on this 10<sup>th</sup> day of May 2005 service of the foregoing requests for production and interrogatories has been made upon the following by depositing a copy in the United States mail, postage prepaid to Andrew Barrett, McCarthy, Barrett & Norton, P.C., 21 McGrath Highway, Unit 301, Quincy MA 02169

  
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Mark J. Grady  
Assistant United States Attorney